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U.S. DISTRICT COURT

2013 AUG 15 2:17

DISTRICT OF UTAH

BY:

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) MEMORANDUM DECISION  
 ) AND ORDER DENYING  
 v. ) REQUEST FOR  
 ) RECOMMENDATION  
 LYLE GEORGE CRELLER, )  
 )  
 Defendant. ) Case No. 2:06 CR 869 TC

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This matter is before the court for consideration of a letter written by Defendant requesting a recommendation that he be allowed extended time in a halfway house.

#### I. BACKGROUND

On December 13, 2006, Defendant was charged in a two-count indictment with (1) being a felon in possession of ammunition; and (2) possession of a controlled substance, to-wit: methamphetamine. Defendant pleaded guilty on December 11, 2007, and on May 5, 2008, was sentenced to a term of 120 months imprisonment.

#### II. DISCUSSION

Defendant requests that the court recommend he participate in the Second Chance Act by allowing him extended placement in a halfway house.

18 U.S.C. § 3624(c)(1) provides:

The Director of the Bureau of Prisons shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for reentry of that prisoner into the community. Such conditions may include a community correctional facility.<sup>1</sup>

As the language of the statute indicates it is the Bureau of Prisons ("BOP"), not the court, that determines whether a particular prisoner shall be placed in a community correctional facility. If the BOP reaches a decision that is unfavorable to Defendant, this request is not the proper vehicle for relief. Rather, a petition under 28 U.S.C. § 2241 is the proper procedure to challenge a decision by the BOP in connection with the Second Chance Act.<sup>2</sup> Defendant is reminded that he must exhaust his administrative remedies before filing a § 2241 petition. As a result, the court must deny Defendant's request without prejudice to it being filed as a § 2241 petition in the district in which he is confined.

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<sup>1</sup> 18 U.S.C. § 3624(c)(1)

<sup>2</sup>See *United States v. Clark*, 2011 WL 743090, at \*2 (W.D. Pa. Feb. 24, 2011).

III. CONCLUSION

IT IS THEREFORE ORDERED that Defendant's Request for Recommendation (Dkt. 66) is DENIED WITHOUT PREJUDICE.

DATED this 14th day of August, 2013.

BY THE COURT:

Tena Campbell

Tena Campbell  
United States District Judge